

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5268

IN THE MATTER OF:

Served February 5, 1998

Application of COACH ONE, INC.,	)	Case No. AP-98-06
Trading as EXECUTIVE COACH, for a	)	
Certificate of Authority --	)	
Irregular Route Operations	)	

By application accepted for filing February 2, 1998, Coach One, Inc., a Maryland corporation trading as Executive Coach, seeks a certificate of authority for irregular route operations between points in the Metropolitan District.

Applicant is under common control with the following carriers: (1) WMATC Carrier No. 177 (Executive Coach, Ltd.); (2) WMATC Carrier No. 265 (Executive Sedan Management Services, Inc., trading as Washington Car & Driver); (3) WMATC Carrier No. 369 (Washington Shuttle, Inc., trading as SuperShuttle); and (4) two local taxicab companies (Barwood, Inc., and Silver Spring Transportation Co.).

Applicant proposes commencing operations with twelve vehicles. Applicant's proposed contract tariff contains hourly rates for shuttle service to and from White Flint Mall in Montgomery County, Maryland. The contract has been assigned by Carrier No. 177 to applicant with the consent of White Flint North Limited Partnership, the other party to the contract.

The Compact states that the Commission may attach to the issuance of a certificate and to the exercise of the rights granted under it any term, condition, or limitation that is consistent with the public interest.<sup>1</sup> The Commission has used this power in the past to deny the use of a particular trade name where the public otherwise might be confused.<sup>2</sup> In this case, applicant proposes using the trade name "Executive Coach," which is the name of Carrier No. 177. The potential for confusion is obvious. Applicant will be directed to file a statement explaining why the Commission should not disallow applicant's use of Executive Coach as a trade name.<sup>3</sup>

The Compact also states that a carrier or any person controlling, controlled by, or under common control with a carrier

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<sup>1</sup> Compact, tit. II, art. XI, § 7(d).

<sup>2</sup> See In re Ernest H. Bannister, Sr., No. AP-79-06, Order No. 1996 (May 11, 1979) (sole proprietor directed to eliminate "Ltd." from trade name).

<sup>3</sup> See In re Great American Tours, Inc., & The Airport Connection, Inc. II, & Airport Baggage Carriers, Inc., No. MP-96-54, Order No. 5007 (Jan. 23, 1997) (carrier ordered to discontinue using trade name that was confusingly similar to name of ex-WMATC affiliate); but see In re United Mgmt. Corp., t/a Passenger Express, No. CP-90-03, Order No. 3563 (Sept. 25, 1990) (applicant permitted to use trade name adopted by WMATC affiliate).

shall obtain Commission approval to acquire control of a carrier that operates in the Metropolitan District, through ownership of its stock or other means.<sup>4</sup> Approval may be granted if the Commission finds the acquisition is consistent with the public interest.<sup>5</sup> The public interest analysis focuses on the fitness of the acquiring party, the resulting competitive balance, and the interest of affected employees.<sup>6</sup> Applicant will be directed to file a statement addressing the effect approval of this application will have on competition and on the employees of Carrier No. 177.

This proceeding is hereby initiated to determine whether applicant is fit and whether the proposed transportation and acquisition of control are consistent with the public interest.

THEREFORE, IT IS ORDERED:

1. That applicant shall publish once in a newspaper of general circulation in the Metropolitan District, no later than February 17, 1998, notice in the form prescribed by the staff of the Commission.

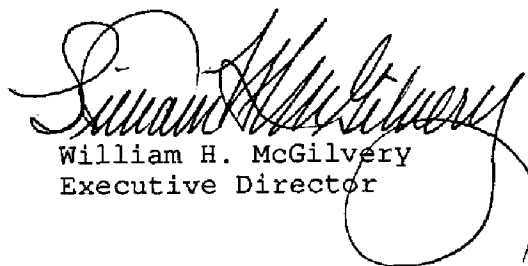
2. That applicant shall file with the Commission, no later than March 10, 1998, an original and four copies of an affidavit that notice has been published as required in the preceding paragraph.

3. That applicant shall file with the Commission, no later than February 17, 1998, an original and four copies of a statement explaining why the Commission should not disallow applicant's use of Executive Coach as a trade name.

4. That applicant shall file with the Commission, no later than February 17, 1998, an original and four copies of a statement addressing the effect approval of this application will have on competition and on the employees of Carrier No. 177.

5. That the deadline for filing protests, comments, applications for intervention, and requests for formal hearing, is March 10, 1998, and that copies must be served on applicant's attorney, John Marshall, Esquire, Moldawer & Marshall, 30 Courthouse Square, Suite 300, Rockville, MD 20850.

FOR THE COMMISSION:



William H. McGilvery  
Executive Director

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<sup>4</sup> Compact, tit. II, art. XII, § 3(a)(iii).

<sup>5</sup> Compact, tit. II, art. XII, § 3(c).

<sup>6</sup> DC Code Ann. § 1-2414 (1992); In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd., & Tourtime America Motorcoach, Ltd., No. AP-96-21, Order No. 4926 (Sept. 12, 1996).